IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE EIGHTEENTH DAY OF JUNE,

TWO THOUSAND AND FOUR

PRESENT:

THE HONOURABLE SRI JUSTICE K.C.BHANU

W.P.No.3089 of 1994

BETWEEN:

1.T Seetharama Raju
2.Syed Mukhtar Ahmed

... PETITIONERS

AND

1.A.P.Co-operative Oil Seeds Growers Federation Ltd.
Rep. by its Chairman & Managing Director,
Basheerbagh, Hyderabad.
2.Unit of A.P.Co-operative Oil Seeds Growers Federation Ltd.
Rep. by its Managing Director, Central Processing Unit,
Beechpally, Mahabubnagar district;
3.B Satyanarayana, Executive (Accounts);
A.P.Co-operative Oil Seeds Growers Federation Ltd.
Basheerbagh, Hyderabad.

....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue any Writ, order or direction particularly a Writ in the nature of 'MANDAMUS' directing the respondents to promote the Petitioners as Executive (Accounts) with effect from the date on which petitioners' junior lie. the third respondent has been promoted with all attendant and consequential benefits.

Counsel for the petitioners: Mr. P.B. VIJAYAKUMAR (not present)

Counsel for the respondents: G.P. for Co-operation.

The Court made the following:

ORDER:

The present writ petition is filed for a direction, more particularly a writ in the nature of Writ of Mandamus directing respondents 1 and 2, to promote the petitioners as Executive (Accounts), with effect from the date on which the third respondent has been promoted.

According to the petitioners, the administration has drawn a final seniority list of Field Officers (general) wherein the seniority of the petitioners is shown at serial No.6 & 7; whereas the seniority of third respondent is at serial No.8. The next promotion from the Field Officer is Executive (Accounts). The administration promoted the third respondent as an Executive (Accounts) with effect from 10-10-1990 without considering the claim of the petitioners, even though they are more qualified than the third respondent in all aspects. It is also stated that at no point of time, any adverse remarks have been communicated and petitioners were not subjected to any interview by Departmental Promotion Committee (for short 'DPC.') It is not known as to what modalities have been observed by the department for promoting the third respondent. No objective criteria has been adopted by the D.P.C. while ordering promotion. To the knowledge of the Writ Petitioners, no D.P.C. has been convened at any point of time and the third respondent has been promoted on account of discriminatory treatment. Hence, the present writ petition.

Respondents 1 and 2 filed counter-affidavit, stating that the writ petition is not maintainable and that the promotion to the post of Executive (Accounts) is a selection post. The Departmental Promotion

Committee considering the merit and ability, empanelled six officers for promotion; that there is no discrimination and that four years after the selection was made, the present writ petition is filed. Therefore, there are no grounds to allow the writ petition.

None appeared for the parties on 15-6-2004 and also today, except the Government Pleader for Cooperation. Learned Government Pleader contended that the writ petition is not maintainable and that the promotions were made in accordance with the service Regulations of respondents 1 and 2.

Perused the record.

As per the service regulation 24.2 of the first respondent-Federation, all posts in the Federation are selection posts. In case where the selection is made only from the employees of the Federation, selection shall be made on the ground of merit, ability, past performance, confidential reports and other relevant factors, if any. The seniority can be considered, if all other factors are equal. So basing on the Regulations, the Departmental Promotion Committee, empanelled six officers for promotion to the post of Executive (Accounts). No *mala fides* are attributed against the selection committee. It is also not stated that the procedure adopted for empanelling six officers by the Selection Committee for promotion to the post of Executive is not in accordance with the Regulations of the Federation. Simply because, the third respondent is a junior, that does not mean the petitioners will get promotion automatically, because the basis on which the petitioners sought promotion to the subject post, is not a seniority post; but, it is a selection post. The selection procedure adopted by respondents 1 and 2 is not said to be illegal or contrary to the Regulations. In the absence of these aspects, the petitioners cannot claim promotion to the post of Executive (Accounts). Affidavit

accompanied the petition did not attribute any *mala fides* to the selection committee or about the violation of any of the service rules governing the service conditions of employees of the first respondent-Federation. Hence, the Writ petition is totally devoid of merits and is liable to be dismissed.

In the result, the Writ Petition is dismissed. In the circumstances no costs.

18-06-2004
BSS/BVS

Assistant Registrar

//True copy //

SECTION OFFICER

1.Chairman & Managing Director, A.P.Co-operative Oil Seeds Growers Federation Ltd. Basheerbagh, Hyderabad.
2. Managing Director, Unit of A.P.Co-operative Oil Seeds Growers Federation Ltd. Central Processing Unit, Beechpally, Mahabubnagar district;
3.Two C D copies for G.P. for Cooperation, High Court of A.P., Hyderabad (OUT)
4.Two CD copies.